

PRSN: Schmifer

(10)

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CLARENCE FRANKLIN,  
Plaintiff, : CIVIL NO. 1:CV-00-0238  
v. : (Judge Kane)  
PENNSYLVANIA DEPARTMENT OF  
CORRECTIONS, ET AL., :  
Defendants. :  
: MAY 23 2000

FILED  
HARRISBURG, PA

MARY E. D'ANDREA, CLERK  
Per SJ  
Deputy Clerk

ORDER

NOW, THIS 23<sup>rd</sup> DAY OF MAY, 2000, upon consideration of the facts that:

(1) plaintiff, proceeding through counsel, filed the instant civil rights complaint pursuant to 42 U.S.C. § 1983 on February 8, 2000; (2) named as defendants in the complaint are the Pennsylvania Department of Corrections (DOC); Martin Horn, DOC Commissioner; Kenneth Kyler, Superintendent at the State Correctional Institution at Camp Hill (SCI-Camp Hill); and SCI-Camp Hill Corrections Officer Robert Via; (3) on March 2, 2000, defendants filed a motion to dismiss the complaint and a brief in support thereof on March 3, 2000;<sup>1</sup> (4) on March 23, 2000, plaintiff filed an executed return of service for each of the defendants; (5) on May 1, 2000, plaintiff filed a motion for entry of default together with a supporting

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1. It appears that defendants served these documents on plaintiff himself rather than on his attorney. Accordingly, the Clerk of Court will be directed to send the pertinent documents to plaintiff along with this order.

brief; and (6) since defendants filed a motion to dismiss the complaint on March 2, 2000, the case is not in a default posture, **IT IS HEREBY ORDERED THAT:**

1. Plaintiff's motion for default (Doc. 9) is DENIED.
2. The Clerk of Court is directed to send a copy of defendants' motion to dismiss (Doc. 4), amended certificate of service (Doc. 5), and supporting brief (Doc. 6) to plaintiff.
3. Plaintiff is directed to file and serve a brief in opposition to defendants' motion within fifteen (15) days of the date of this order or the motion will be deemed unopposed. See M.D. Pa. LR 7.6.
4. Defendants may, if they desire, file a reply brief within ten (10) days of the date plaintiff files his opposing brief.



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Yvette Kane  
United States District Judge

YK:mcs